New Jersey Department of Environmental Protection
Division of Waste Compliance & Enforcement and Release Prevention
Bureau of Hazardous Waste Compliance and Enforcement

Position on Satellite Accumulation

Effective Date: July 22, 1998

Approval: Original signed by Charles DeWeese
Waste Compliance & Enforcement and
Release Prevention
Approval: Original signed by John A. Castner
Solid & Hazardous Waste

NJ Application Rule [citations]:

N.J.A.C. 7:26G-6.1 specifically 40 C.F.R. 262.34(c) – Accumulation Time...(Commonly known as Satellite Accumulation)

N.J.A.C. 7:26G-9.1 specifically 40 C.F.R. 265.170 Use and Management of Containers

1) Purpose:

The present purpose of this paper is to improve and clarify the hazardous waste management procedures for generators who may have satellite accumulation areas.

2) Basis and background:

A satellite accumulation area is defined by the United States Environmental Protection Agency (USEPA) and the New Jersey Department of Environmental Protection (NJDEP) as an area at or near any point of generation where hazardous waste initially accumulates, and is under the control of the operator of the process generating the waste. [Attachment A-USEPA Regulatory Response]. These satellite accumulation areas do not have to be permitted nor comply with N.J.A.C. 7:26G-6.1 specifically 40 C.F.R. 262.34(a) (i.e., 90 day accumulation requirements) provided that they meet the following requirements set forth at N.J.A.C. 7:26G-6.1 specifically 40 C.F.R. 262.34(c):

1. A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph §261.34(a) of this section provided he:

   (i) Complies with *§§265.171,* 265.172, and 265.173(a) of this chapter: and
   (ii) Marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

2. A generator who accumulates either hazardous waste or acutely hazardous waste listed in §261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three-day period, the generator must continue to comply with paragraphs (c)(1)(i) through (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

During the accumulation period, it is important to know that both State and Federal regulations describe the type of containers used and how these containers are managed. [Attachment B - USEPA Memo]. Accordingly, the waste must be managed in accordance with the specific sections of N.J.A.C. 7:26G-9.1 specifically, 40 C.F.R. Part 265, Subpart I outlined below:

- If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements under this part. [N.J.A.C. 7:26G-9.1 specifically, 40 C.F.R. 265.171].

- The owner or operator must use a container made of or lined with materials which will not react with, and are other wise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired [N.J.A.C. 7:26G-9.1 specifically, 40 C.F.R. 265.172].

- A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste [N.J.A.C. 7:26G-9.1 specifically, 40 C.F.R. 265.173(a)].

3) Intent:

N.J.A.C. 7:26G-6.1 specifically C.F.R. 262.34(c) is intended to relieve generators of the burden of documentary requirements (i.e. contingency plans, personnel training plans and preparedness and prevention arrangements) for on-site locations where wastes are initially generated and accumulated in a satellite area. In addition to this benefit, generators also have
an indefinite time period to accumulate up to *55* gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.33(e) in these satellite areas; and therefore, allows any generator who is subject to full regulation to accumulate a full container prior to further management.

4) Application:

The following is a list of regulatory applicability determinations that the NJDEP regulatory and enforcement divisions have made in the past and are currently being applied with respect to satellite accumulation:

- A satellite accumulation area will be limited to one “waste stream” or a combination of *compatible* waste streams. [Definition of a “waste stream”: a material generated as a result of a distinct and limited process, procedure or activity.]

- *[When the total quantity of hazardous waste at a satellite accumulation area is LESS THAN the accumulation limit*, multiple partially-filled containers may be used at the same time- *Accumulation limit = 55 gallons of hazardous waste or one quart of acutely hazardous waster.]*

- There is no limit on the total number of full containers allowed at a satellite accumulation area provided that; a). each full container is securely closed and has been marked with the date *[when excess accumulation began;]* and b). *each container* is *removed from the area within three* days [of *that date]. [Definition* of “excess *accumulation* “. *when the satellite accumulation area limit* has been exceeded].

- Notwithstanding the fact each satellite accumulation areas is in control of an operator, an accumulation area... “at or near the point of generation” ... provides no minimum distance requirement for separating any satellite accumulation area. Therefore, multiple satellite areas may be located in close proximity to one another.

- A generator may accumulate waste in a satellite accumulation area exclusively, without having less than 90 day accumulation area or on-site authorized facility, provided each container is shipped off site within three days *[from the date “excess accumulation” begins].*

- There is no time limit for the initial accumulation in satellite areas.

- A conveyance container (i.e. a laboratory safety can) may be used to move or convey waste from an initial generation point (i.e. work station) to the actual satellite accumulation container. The conveyance container itself would not need to be managed in accordance with N.J.A.C. 7:26G-6.1 specifically 40 C.F.R. 262.34(c).

- *[Containers such as beakers, flasks, or other, laboratory glassware including four-liter bottles, that are connected to laboratory apparatus or a piece of equipment, are considered part of the process and not subject to accumulation rules and regulations.*

5) Position:
New Jersey's position is that any generator who is subject to full regulation may accumulate less then *55* gallons of non-acutely hazardous waste or less than one quart of acutely hazardous waste in a satellite accumulation area at or near the point of generation provided that the area is in control of the operator. Within three days after the accumulation limit for any particular area has been reached, the waste must be removed and managed in compliance with N.J.A.C. 7:26G-6.1 specifically 40 C.F.R. 262.34(a).

Note: This position paper supercedes any decisions or positions that were printed in previous documents.

This position paper is intended for use as guidance to the regulated community in understanding and complying with the satellite accumulation requirements. Determinations regarding a site's compliance with the satellite requirements are best made upon an inspector's best professional judgement after reviewing site specific information such as processes employed, waste handling procedures, type of waste, location and employee training.

If you have any *questions* concerning New Jersey's position on this subject, please contact your regional hazardous waste enforcement field office.

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Attachment A1

9453.1989(08)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

AUG 2 1989

T.R. Kirk, Environmental Scientist
Fehr-Graham & Associates
660 W. Stephenson St.
Freeport, Illinois 61032

Dear Mr. Kirk:

This is in response to your letter of July 6, 1989, requesting a clarification of 40 CFR Section 262.34(c), the "satellite accumulation" provision. Section 262.34(c)(1) states that, provided certain requirements are met, "a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in Section 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste ..." Your question concerns whether the 55 gallon limit on hazardous waste applies to the total quantity of hazardous waste accumulated at the satellite location, or it is applies to each waste stream accumulated at the satellite location.

The 55 gallon limit applies to the total of all the non-acutely hazardous waste accumulated at a satellite accumulation area. In the enclosed Federal Register notice of December 20, 1984 (49 FR 49568) EPA explicitly states that the 55 gallon limit on non-acutely hazardous waste applies to each satellite accumulation area.

Although the total amount of hazardous waste that may be accumulated at any one satellite area is limited to 55 gallons, EPA intentionally did not limit the total number of satellite areas at a generator's facility nor specify the size of the containers to be used for accumulation. A case-by-case analysis is necessary to determine whether a generator is accumulating more than 55 gallons of waste at one satellite area, or whether a generator has more than one satellite area. An example of a situation that would not be in compliance with the regulations is

given in the enclosed Federal Register notice on page 49569, column 3. The appropriate State or EPA Regional office would make these case-by-case determinations.

If you have any further questions regarding this letter, you may contact Emily Roth of my staff at (202) 382-4777.

Sincerely,

Original Document signed

Syliva K. Lowrance
Director
Office of Solid Waste

Enclosure

Attachment A2

EPA requested comments on these alternatives as opposed to the 55 gallon accumulation limit. Commenters did not support either alternative. Several specifically stated that either option would be burdensome and unworkable.

As an alternative to the 55 gallon limit at each satellite area, a number of commenters suggested a limit on the total amount of hazardous wastes allowed in satellite areas at a generator's facility. Commenters suggested various means of doing this, including a limitation on the number of specific wastes in satellite areas and a total limit on the amount of hazardous waste in satellite areas at the facility. Other commenters suggested a higher limit than 55 gallons at any particular satellite area. These commenters cited the availability of reusable shipping bins of up to 110 gallons in capacity. Finally, several commenters urged EPA to apply this rule to the accumulation of the initial 55 gallons instead of applying it only to the amount in excess of that accumulation.

After considering all the comments, EPA has decided not to change the 55 gallon threshold for accumulation of hazardous wastes. EPA believes that the accumulation at satellite areas of amounts of up to 55 gallons of non-acutely hazardous waste is reasonable and safe and does not pose a threat to human health or the environment. Accumulation of the amount in excess of 55 gallons is covered by this rule and, after three days, by the requirements of § 264.34(a) or by the requirements of Parts 264 or 265. Most commenters from the regulated community supported the 55 gallon level as meeting their needs since satellite areas are normally used to manage one waste generated by an individual industrial process and commenters said they typically use a 55 gallon drum to store this waste before removing it to a central storage area.

EPA believes that it is the amount in excess of 55 gallons that must be regulated under the requirements of §262.34(a) or Parts 264 or 265. EPA is establishing minimal requirements covering the accumulation of less than 55 gallons of nonacutely hazardous wastes in satellite accumulation areas because these amounts do not pose a significant threat to human health or the environment. A spill at an industrial site of 55 gallons or less of nonacutely hazardous waste is easy to control and clean up because of the small amount of waste involved. In addition to the lack of environmental threat, the widespread use of the 55 gallon drum makes it the most practicable threshold level for satellite accumulation. EPA is convinced that amounts up to 55 gallons of nonacutely hazardous wastes can be safely managed at satellite accumulation sites without the full requirements of § 264.34(a). Because the weight of evidence suggests limited use by the regulated community of containers larger than 55 gallons and because spills of 110 gallons of nonacutely hazardous wastes would pose a greater environmental threat, EPA does not believe that the satellite accumulation level should be higher than 55 gallons.

Finally, EPA is not limiting the total amount of hazardous waste that could be accumulated at various satellite areas at a generator's facility because EPA does not believe that there is a strong environmental basis for such a requirement. Today's rule is intended to allow accumulations to set a limit that can be safely accumulated and removed (i.e., 55 gallons for hazardous waste and one quart for actutey hazardous waste), thus, alleviating more frequent movement of smaller quantities of hazardous waste within the generator's facility. A total facility amount limitation would contravene that purpose. In addition, the practical effect of such a requirement would be to discriminate against those facilities with many initial points of waste generation, forcing them to select some satellite areas for accumulation of 55 gallons, while immediately removing wastes generated at other satellite areas to central storage areas. Limiting the total amount of wastes accumulated under this rule would present enforcement difficulties for EPA and administrative complexities for the regulated community without providing any significant additional protection to human health and the environment.

B. The 72 Hour Transportation Requirement

Several commenters argued that the proposed requirement to move the amount of hazardous waste over 55 gallons to a central storage area within 72 hours was an insufficient amount of time. These commenters argued the rule is too restrictive because of management scheduling problems and three-day holidays. Other commenters argued the 72 hour period was unenforceable without a requirement to label the containers with the date and time the excess amount began accumulating.

EPA believes the proposed 72 hour period allows generators adequate lead time to manage the excess waste in accordance with the requirements of § 262.34(a). Most facilities should be aware of process waste generation rate and should be able to arrange for the removal of any excess accumulation within that time frame. In addition, good management should be able to use advance scheduling to manage the excess waste in spite of a three-day holiday.

However, EPA agrees that this rule will be difficult to enforce without any indication of when excess amounts began accumulating. Thus, EPA is requiring that containers be marked with the date when the excess accumulation began. This requirement will not impose any undue burden on the regulated community since EPA is not requiring special labels or any additional internal recordkeeping. Marking the container clearly with the date excess accumulation begins will be sufficient. In addition, EPA is changing the time requirement from 72 hours to three days. The added precision of both the date and time of day is unnecessary and this change lessens the additional burden imposed by the labelling requirement. Finally, industry can avoid the labelling requirement completely by moving containers prior to the accumulation of more than 55 gallons.

C. The Definition of Satellite Area

Several commenters requested guidance on the definition of satellite areas on the grounds that EPA has not adequately defined what it means by satellite areas. Others argued the concept is unenforceable without a precise regulatory definition. One commenter raised the possibility of a generator storing 55 gallon drums 5 feet apart along the wall of his facility in an attempt to circumvent further regulatory responsibilities.

Satellite areas are those places where wastes are generated in the industrial process or the laboratory and where those wastes must initially accumulate prior to removal to a central area. This point of accumulation is under the control of the operator of the process that is generating the waste. In order to clarify the meaning of "satellite areas" EPA has added language to this rule delineating the meaning of satellite areas. Certainly the example given by the commenter, of a row of full 55 gallon drums spaced 5 feet apart along the factory wall, does not meet the requirements established by this regulation.

D. The Exclusion of Acutely Hazardous Wastes From This Rule and Its Impact on Labs

A number of commenters raised questions about the exclusion of acutely hazardous wastes listed in § 261.33(e)

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Attachment B

9453.1989(07)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUL 13 1989

MEMORANDUM

SUBJECT: "Satellite" Accumulation

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste

TO: David A. Ullrich, Associate Division Director
Office of RCRA
Waste Management Division (5HR-13)

In response to your memorandum of June 13, 1989, we have addressed the questions posed by Ohio EPA regarding our requirements of 40 CFR Section 262.34(c) concerning satellite accumulation.

Specifically, in the attachment to your memorandum, Ohio EPA asks if roll-off boxes meet the definition of containers and may be used at satellite accumulation areas. It is our view that if the roll-off boxes meet the definition of container found in Section 260.10 and are managed in accordance with the applicable container requirements of Sections 265.171, 265.172, and 265.173(a), they may be utilized in satellite accumulation.

Section 260.10 defines "container" as "any portable device in which a material is stored, transported, treated, disposed of or otherwise handled." A roll-off box is a portable device. The container requirements include: (1) that the container be in good condition (i.e., not leaking), (2) that the container be of a material, or lined with a material, which is compatible with the waste, and, (3) that the container be closed during storage, except to add or remove waste.

The other requirement under Section 262.34(c)(1) states that the container be marked with the words "Hazardous Waste" or other words that identify the contents. This is the extent of the physical requirements for satellite accumulation containers. Therefore, as long as the quantity limits and time limits for excess quantities are met, the roll-off box may be classified as a satellite accumulation container.

However, for containers used in off-site shipment of hazardous waste, the Department of Transportation (DOT) packaging specifications for the hazard class must be met. DOT regulations governing the transportation of hazardous materials are found in 49 CFR Parts 171 through 177.

Ohio EPA has also raised a concern about the ability of a generator to determine when the 55 gallon quantity limit for satellite accumulation of hazardous waste (or one quart of acute hazardous waste), is exceeded if roll-off boxes are used. The dimensions, or capacity, of the roll-off boxes are not mentioned in the Ohio EPA attachment. Under our regulations any type of container may be used as a satellite accumulation device provided it meets the Section 260.10 definition for container, and is used in accordance with the above-mentioned container provisions of Part 265. We ask that Ohio EPA inform us if they find that the use of roll-off boxes of various volumes and capacities contributes to a generator's inability to quantify his waste.

In addition to answering these questions, we offer the following observation. It appears that the Ohio EPA has a thorough understanding of the Section 262.34 requirements and provides an accurate interpretation of the regulations. However, you should note that, upon removal from an accumulation storage area, hazardous waste may also be managed in an on-site permitted unit (45 FR 76624, November 19, 1980).

If you have any questions regarding this memorandum, please do not hesitate to contact me or have your staff contact Emily Roth at (202) 382-4777.

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